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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of SOUTHERN CALIFORNIA EDISON COMPANY (U 338-E) for a Certificate of Public Convenience and Necessity Concerning the Tehachapi Renewable Transmission Project (Segments 4 through 11).

Application 07-06-031
(Filed June 29, 2007)

**ADMINISTRATIVE LAW JUDGE'S RULING
GRANTING MOTIONS FOR PARTY STATUS
FILED BY THE WATERSHED CONSERVATION AUTHORITY AND
CALIFORNIANS FOR RENEWABLE ENERGY AND DETERMINING
LATTER'S ELIGIBILITY FOR INTERVENOR COMPENSATION**

Summary

This ruling responds to two motions for party status: one from the Watershed Conservation Authority (WCA),¹ and one from Californians for Renewable Energy (CARE),² as well as CARE's notice of intent to claim compensation (NOI). Party status is granted to both WCA and CARE and CARE

¹ The Watershed Conservation Authority is a joint powers authority of the San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy and the Los Angeles County Flood Control District.

² CARE should not be confused with the group *Citizens for Alternate Routing of Electricity*, also known under the acronym "CARE," which is on the "Information Only" service list in this proceeding.

is determined to be eligible to request intervenor compensation based on its participation in this proceeding.

Background

A pre-hearing conference (PHC) was held in this proceeding on August 27, 2007. CARE filed its motion for party status pursuant to Rule 1.4(a)(4)³ on September 4, 2007. CARE fully disclosed the persons making the filing, and their interests, as well as how their participation would be relevant to the proceeding, as required by Rule 1.4(b). No party has objected to CARE's motion.

CARE also filed an NOI on September 26, 2007, stating that it seeks intervenor compensation pursuant to § 1801, *et seq.* Under § 1804(a)(1),⁴ a customer who intends to seek an award of intervenor compensation shall, within 30 days after the PHC is held, file and serve on all parties to the proceeding a NOI. CARE's NOI was therefore timely filed. No party has objected to the NOI.

WCA filed its motion for party status pursuant to Rule 1.4(a)(4) on October 26, 2007. No party has objected to the WCA motion.

Motions for Party Status

CARE has demonstrated an appropriate interest in this proceeding and intends to raise issues not likely to be raised by other parties. Given the short time between the filing of the Motion and the date of the PHC (CARE initially contacted the Administrative Law Judge (ALJ) the day after the PHC to request guidance on becoming a party), there will be no undue hardship on the parties caused by granting CARE's motion.

³ All Rule citations are to the Commission's Rules of Practice and Procedure.

⁴ All Code citations are to the Public Utilities Code, unless otherwise stated.

However, Rule 1.4(c) authorizes the assigned ALJ to limit a party's the participation. CARE's Motion and NOI indicate an interest in raising issues, such as the "cumulative impacts of proposed wind farm projects identified of "up to approximately 4,500 Megawatt from the Tehachapi Wind Resource Area" pursuant to the California Environmental Quality Act (CEQA),"⁵ which may fall outside of the scope of this proceeding.⁶ Because CARE did not attend the PHC, the exact issues that it will present are unclear. CARE is therefore advised to cautiously review the forthcoming scoping memo in this proceeding to ensure that its participation remains within the scope of the proceeding.

Therefore, CARE's motion for party status is granted, subject to the condition that it will not expand the issues in the proceeding and will not delay the progress of this proceeding.

WCA has also demonstrated an appropriate interest in this proceeding, because the project in question transects the WCA's territory, and more specifically has the potential to impact its "River Commons" project at the Duck Farm near the intersection of I-605 and Valley Boulevard. WCA has stated that it intends to actively participate by submitting expert testimony, participate in workshops and/or settlement discussions, file briefs and comments. WCA agrees not to expand the issues in the proceeding or to delay the progress of the proceeding.

Accordingly, WCA's motion for party status is granted.

⁵ Motion, pp. 3-4.

⁶ Environmental impacts under CEQA will be fully considered in the process of developing the Environmental Impact Report/Environmental Impact Statement, but other, non-environmental impacts may be outside of the scope of the proceeding.

Notice of Intent

Under § 1804(a)(2), the NOI must address the following issues:

A. Customer Status - Whether the intervenor is a customer, as defined in § 1802(b),

B. Explanation of Planned Participation in the Proceeding - A statement of the nature and extent of the customer's planned participation in the proceeding, so far as it is possible determine at the time of filing the NOI;

C. Estimate of Costs - An itemized estimate of the compensation that the intervenor intends to request, given the likely duration of the proceeding; and

D. Financial Hardship - The NOI may also address whether participation in the proceeding will cause the intervenor significant financial hardship, if intervenor is not found eligible for intervenor compensation. If this issue is not addressed in the NOI, the intervenor must demonstrate significant financial hardship resulting from participation in the proceeding in the subsequent request for an award of intervenor compensation.

CARE's NOI contains information regarding all of these elements, and therefore on its face appears to meet the general requirements of § 1804(a)(2). The first and last of these issues are discussed more fully below. The reasonableness of the estimate for costs is not being considered in this ruling, and the scope of the planned participation has been discussed above.

Customer Status

Section 1802(b)(1) defines three types of "customers" eligible to claim intervenor compensation:

- A participant representing customers of a utility subject to the jurisdiction of the Commission;
- A representative authorized by a customer; and

- A representative of a group or organization authorized in its articles of incorporation or bylaws to represent the interests of residential customers or small commercial customers who receive bundled electric service from an electrical corporation.

A “participant representing consumers” is an actual customer who represents more than his own narrow self-interest; a self-appointed representative.⁷ A “representative authorized by a customer” connotes a more formal arrangement in which a customer, or a group of customers, selects a presumably more skilled person to represent the customers’ views in a proceeding.⁸ A “representative of a group or organization” is a formally organized group (with articles of incorporation and/or bylaws) authorized to represent the views of customers.⁹

CARE has provided information which demonstrates that it is a nonprofit organization authorized by its by-laws to represent residential customers in this proceeding, including customers of Southern California Edison Company. Therefore, CARE qualifies as a customer under § 1802(b)(1)(C).

Significant Financial Hardship

Section 1804(b)(1) states in part that “A finding of significant financial hardship shall create a rebuttable presumption of eligibility for compensation in other commission proceedings commencing within one year of the date of that finding. On August 16, 2007, ALJ Prestige ruled in proceeding Complaint (C.) 07-03-006 that CARE’s participation would result in significant financial

⁷ D.98-04-059.

⁸ Id.

⁹ Id.

hardship. Since this proceeding commenced within one year of the ruling in C.07-03-006, a rebuttable presumption of significant financial hardship exists.

No objection to the NOI has been filed, and hence no evidence has been presented to rebut this presumption. In addition, no other information is known to the ALJ that would provide such rebuttal.

CARE has therefore shown that, in the absence of intervenor compensation, its participation in this proceeding will result in significant financial hardship, pursuant to § 1802(g).

Therefore, based on the above, **IT IS RULED** that:

1. The Watershed Conservation Authority's Motion for Party Status is granted.
2. CARE Motion for Party Status is granted, subject to the condition that it will not expand the issues in the proceeding or delay the progress of the proceeding.
3. CARE's NOI to Claim Compensation was timely filed and meets the requirements of § 1804.
4. CARE qualifies as a customer entitled to request intervenor compensation in this proceeding, pursuant to § 1802(b)(1)(C).
5. CARE has demonstrated that, in the absence of intervenor compensation, its participation in this proceeding would result in a significant financial hardship, pursuant to § 1802(g).
6. This ruling does not guarantee that CARE will receive an award of intervenor compensation based on its participation in this proceeding. All parties which intend to seek intervenor compensation should ensure that their efforts complement or supplement, but do not duplicate, the efforts of other parties with similar interests. Parties requesting intervenor compensation should

discuss amongst themselves the issues that each will address in order to promote efficiency in the presentation of their case. Merely appearing, stating a position, and cross-examining do not ensure an award of compensation. Intervenors must demonstrate that their participation resulted in a substantial contribution to the proceeding through a unique presentation of facts or arguments that were relied upon by the assigned ALJ or Commission in resolving this proceeding.

Dated November 26, 2007, at San Francisco, California.

/s/ VICTORIA S. KOLAKOWSKI

Victoria S. Kolakowski
Administrative Law Judge

INFORMATION REGARDING SERVICE

I have provided notification of filing to the electronic mail addresses on the attached service list.

Upon confirmation of this document's acceptance for filing, I will cause a Notice of Availability of the filed document to be served upon the service list to this proceeding by U.S. mail. The service list I will use to serve the Notice of Availability of the filed document is current as of today's date.

Dated November 26, 2007, at San Francisco, California.

/s/ ANTONINA V. SWANSEN

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**Last Updated on 19-NOV-2007 by: AJH
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